

**Claim Rejections – 35 U.S.C. 102**

The Examiner has rejected claims 1, and 3 to 10 under 35 U.S.C. 102(b) as being anticipated by Rutherford (U.S. Patent no. 3,601,096). In rejecting the claims the examiner stated:

Rutherford shows a hog raising barn having walls 17, a roof 18 and a solid, sloping floor 14 with a waste collection means 13. The floor divided into pens 32 having feeders 33 and waterers 34. The barn having a draft means 21 for creating an air draft over the waste collection area 13. The pens 32 being disposed such that two surfaces incline towards each other and the waste collection area 13 and having open areas (unnumbered) which allow for visual communication between the pens, see figure 2.

A rejection under 102 for anticipation requires that the single reference teach each and every element of the rejected claim. See, *Atlas Powder v. E.I. DuPont*, 750 F.2d 1569 (224 USPQ 409)(Fed. Cir. 1984). The examiner's rejections under 102 in this case fail to meet this test.

Applicant's invention of claim 1 is a barn including a floor for supporting the hogs including a sloped surface and a waste collection area. The floor of applicant's invention, which includes the waste collection area, is solid such that materials on the floor settle on the floor without passing therethrough and is capable of supporting an animal. The barn of Rutherford does not include such a waste collection area on the floor. In Rutherford, at column 2, line 74 to column 3, line 4, the waste collection area which is part of the barn floor is slatted 48 such that feces can pass therethrough into the manure sump 13. Nowhere in Rutherford is it revealed that the slatted floor be selected to allow materials to settle thereon without passing therethrough.

While the Examiner may argue that the waste collection area of applicants claim is shown as the floor 42 of manure sump 13, applicant notes that floor 42 cannot be considered part of the barn floor and is not capable of supporting an animal, since floor

is intended to be covered in animal feces and water, as noted at column 2, lines 53 to 61.

As Rutherford does not teach a waste collection area that is part of the floor, is capable of supporting an animal thereon and is solid such that materials settling thereon cannot pass therethrough, applicant's claim 1 is clearly not anticipated.

Claims 3 to 10 each depend from claim 1 and, thereby, require that the waste collection area be solid such that materials on the floor settle on the floor without passing therethrough. As no such waste collection area is provided for in Rutherford, claims 3 to 10 are not anticipated. In addition, Rutherford does not show other claimed elements including, for example, a waterer as part of an animal feeding station adjacent an upper end of the sloped surface (claim 4)

For the reasons stated above, applicant respectfully requests that the Examiner withdraw the rejections to Claims 1 and 3 to 10.

### **Claim Rejections – 35 U.S.C. 103**

The Examiner has rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Rutherford. In rejecting claim 5 the examiner stated:

With respect to claim 5, to use an on demand waterer in the barn of Rutherford would have been obvious to one skilled in the art wishing to provide a continuous supply of clean, fresh water to the animals.

As stated above Rutherford does not teach or suggest some of the elements of claim 1 from which claim 5 depends and, therefore, claim 5 is patentable over Rutherford. Further, Rutherford does not teach or suggest the particular elements defined in claim 5. In particular, in claim 5 applicant's feeding station is defined as including a on-demand means for releasing water and in claim 1 the feeding station is defined as being on the upper end of the sloped floor surface. In Rutherford, at column 2, lines 48, 49, the waterers are located over the manure sump, which is at the lower end of the sloped surface. In addition, while the Examiner notes that it would be

"obvious" to use an on-demand waterer in the barn of Rutherford, applicants do not agree. There appears to be no reason in Rutherford to even consider an on-demand waterer. For these reasons, claim 5 is not rendered obvious by Rutherford.

The Examiner has rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Rutherford in view of Mente (U.S. Patent no. 3,762,372). In rejecting the claims the examiner stated:

Mente et al show a barn for raising hogs having a structure including walls 21, roof 20, and a floor 23 for supporting the hogs. The floor 23 being solid such that materials do not pass through and having at least one sloped surface leading to a flat waste collection area 29 at the lower end of the sloped surface. The barn also having a feeding 33 and watering 34 stations in each pen 24. The floor 23 having a heated area 28a for a sleeping surface. With respect to claim 2, to use the heater of Mente et al with the barn of Rutherford would have been obvious to one skilled in the art wishing to provide a more comfortable flooring for the animals.

As stated above, Rutherford does not teach or suggest a waste collection area that is part of the floor, capable of supporting an animal thereon and is solid such that materials settling thereon cannot pass therethrough. Since claim 2 depends from claim 1, these claims are patentable over Rutherford. Mente adds nothing to Rutherford that would render these claims obvious. In particular, Mente also has a slatted waste collection area and does not teach or suggest a non-slatted waste collection area. Thus, Rutherford and Mente alone or in combination fail to teach the invention of claim 2.

With respect to claims 11 to 14, the Examiner has rejected these claims under 35 U.S.C. 103(a) as being unpatentable over Rutherford in view of Olson (U.S. Patent no. 3,140,443). In rejecting the claims the examiner stated:

Olson shows a method of treating manure from a barn where in the manure is coating and mixed with fibrous material which had previously covered the barn

floor, see column 7, lines 43-47. With respect to claim 11, to cover the floor of the barn of Rutherford is obvious to one skilled in the art as shown by Olson as a method of containing and removing manure.

Applicant's invention of claim 11 is a process for raising hogs including confining hogs on a solid floor, applying compostable, fibrous material to the solid floor, collecting manure-soiled fibrous material from the floor and composting the manure-soiled fibrous material to form a nutrient rich material. Rutherford does not teach or suggest any of these process steps. As stated previously, Rutherford teaches confining hogs to a partially slatted floor and therefore does not teach the first step of the method and appears to teach away from it. Rutherford does not reveal, either directly or indirectly, the remaining three steps of the claimed process. Olson adds nothing to Rutherford that would render the claimed process unpatentable. While Olson teaches indirectly applying straw to a barn floor and collecting manure soiled straw, Olson does not reveal an approach for confining the hogs. Olson also does not teach the step of composting the collected manure-soiled material. Olson instead teaches conveying the manure-soiled material to a holding tank.

Further, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. There is no motivation, teaching or suggestion either explicit or implicit, to modify Rutherford in view of Olson. Neither patents relate directly to a process for raising hogs and to suggest that the teachings of Olson can be applied to the teachings of Rutherford is unfounded as Olson lacks any concern for raising hogs.

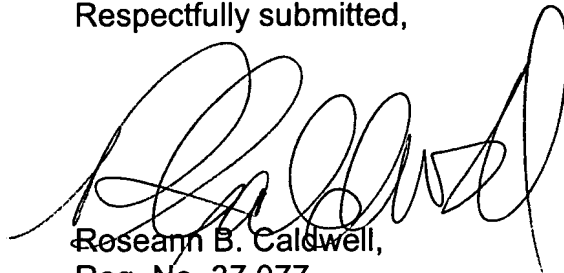
For the reasons stated above, claims 11 to 14 are clearly patentable over Rutherford and Olson, alone or in combination.

As the prior art do not render applicant's claims obvious, applicant respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. 103.

## Conclusions

In light of the arguments presented by applicant herein, applicant submits that claims 1 to 46 are in a condition for allowance. Applicant respectfully requests that the Examiner withdraw all rejections with regard to the claims in reliance on one or more of the grounds submitted by the applicant.

Respectfully submitted,



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